IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIRST DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 26192 of 2003

Between:

Smt.Yousuf Bee, W/o S.K.Wajid Ali, D/o Late S.K.Hussain
R/o Saidabad, Hyderabad, Hyderabad District.

..... PETITIONER

AND

The Depot Manager, Andhra Pradesh State Road Transport Corporation,
Kamareddy Depot, Nizamabad District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one in the nature of Writ of Mandamus declaring the inaction of the respondent not releasing the death benefits of petitioner's father late S.K.Hussain E.39274 i.e., Provident Fund, Gratuity, SBT, SMBF, CCS, GDLF, Additional Monetary Benefit Fund in lieu of employment, Earned Leave Salary, and other benefits as per the regulations of the Corporation is illegal, arbitrary, consequently direct the respondent to release the same forthwith.

Counsel for the Petitioner: MR. S.A.K. MYNODDIN

Counsel for the Respondent: Mr. K. HARINATH (SC FOR APSRTC)

The Court made the following :

ORAL ORDER:

It is the case of the petitioner that her father Sri S.K. Hussain, worked as Driver/Helper in the respondent-Corporation and he retired on medical grounds on 02.12.1999 and later he died on 28.09.2001. She made a representation with the authorisation of her sister Khaja Banu before the respondent-Corporation for settlement of death benefits of her late father. There upon, the respondent asked her to bring legal heir certificate from the competent authority and accordingly she has submitted the legal heir certificate on 12.02.2002, but the respondent-Corporation has not settled the amounts payable to her deceased father in spite of the fact that they have personally approached the respondent and made representation. A legal notice was also issued on 19.09.2003 for release of the amounts, but no action has been taken.

The respondent-Corporation filed a counter admitting that Sri S.K. Hussain, father of the petitioner, who worked as Helper in Kamareddy Depot, Nizamabad, retired from service on medical grounds on 02.12.1999. He had received payments under SBT, Provident Fund

by himself, but before receiving Gratuity and other monetary benefits he died on 28.09.2001. It is stated that there were counter claims for receipt of the said benefits after his death and therefore the said payments could not be released. The deceased nominated his wife Thahera Begum for ¾ th share and his daughter Khaja Begum for ¼ share for the purpose of gratuity. The petitioner submitted legal heir certificate in which it is stated that the petitioner and Khaja Banu are the daughters of the deceased. There is variance in the name of the sister of the petitioner as her name in the nomination form was mentioned as Khaja Begum, but whereas her name in the legal heir certificate was shown as Khaja Banu. Therefore, the said amounts could not be paid.

There is no dispute that S.K. Hussain died on 28.09.2001. There is also no dispute that the petitioner filed an application on 12.02.2002 before the respondent-Corporation stating that herself and her sister Khaja Banu, are only the legal heirs of their deceased father S.K. Hussain and entitled for settlement of the benefits and on the said letter, the Depot. Manager, APSRTC, Kamareddy Depot advised the petitioner and also Khaja Banu to produce legal heir certificate for release of the amounts payable to them.

No doubt in the nomination form in respect of the release of the amounts, the deceased S.K. Hussain nominated his wife Thahera Begum and his daughter Khaja Begum. The declaration was made on 10.11.1983. At that time Khaja Begum daughter of the deceased S.K. Hussain was only aged about 7 years. Except the claim of the petitioner and her sister, no other person made any rival claim. Therefore, there is no justification on the part of the respondent-Corporation in withholding the said amounts payable to the legal heirs of the deceased S.K. Hussain. The legal heir certificate also clearly shows that the petitioner and her sister Smt. Khaja Banu are only the legal heirs of the deceased S.K. Hussain being his daughters and the petitioner is aged about 25 years and Khaja Banu is aged about 27 years. Therefore in view of the said legal heir certificate issued by the Mandal Revenue Officer, Saidabad, there

cannot be any objection for the respondents for settlement of the benefits payable to the legal heirs of the deceased S.K. Hussain. In the absence of any rival claim there cannot be any justifiable reasons for the respondents to withhold the amounts payable to the legal heirs of the deceased.

Having regard to the facts and circumstances of the case, the writ petition is allowed directing the respondent-Corporation to pay the gratuity and other monetary benefits payable to the petitioner herein and Khaja Banu who are the daughters of the deceased S.K. Hussain who retired on medical grounds as helper on 02.12.1999 within six weeks from the date of receipt of a copy of this order. No order as to the costs.

21st July, 2004

Nsr

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Wednesday the 21st day of July, Two Thousand and Four.

ASSISTANT REGISTRAR

To

1. The Depot Manager, Andhra Pradesh State Road Transport Corporation, Kamareddy Depot, Nizamabad District.
2. Two CD copies.